

UNITED STATES DISTRICT COURT

Northern District of California

Oakland Division

J & J SPORTS PRODUCTIONS, INC.,

Plaintiff,

v.

MICHAEL CARDOZE,

Defendant.

No. C 10-01875 LB

**ORDER STRIKING DEFENDANT'S
JUNE 14, 2010 FILING (DOCKET NO.
6); DENYING AS MOOT
PLAINTIFF'S MOTION TO STRIKE
(DOCKET NO. 7)**

Plaintiff filed a Complaint against Defendant on April 30, 2010. Docket No. 1. On June 14, 2010, Defendant filed a "Reply to Plaintiff's Request for Entry of Judgment." Docket No. 6. On July 2, 2010, Plaintiff filed a Motion to Strike Defendant's "Reply to Plaintiff's Request For Entry of Judgment." Docket No. 7. According to Plaintiff, it has not yet served Defendant with the Complaint or moved for entry of default. Declaration of Thomas P. Riley at ¶ 4.

Prior to the deadline for filing a responsive pleading, Defendant may file either an Answer to the Complaint or a motion pursuant to Federal Rule of Civil Procedure (FRCP) 12(b) or 12(e). *See* Fed. R. Civ. P. 7(a) & 12. Defendant's June 14, 2010 filing was neither a pleading under FRCP 7 nor a motion under FRCP 12(b) or 12(e). Further, based on the title of Defendant's June 14, 2010

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1 filing and Plaintiff's assertion that it has not served Defendant with the Complaint or filed a motion
2 for entry of default, it appears Defendant filed docket number six by mistake. Because Defendant's
3 June 14, 2010 filing does not conform with the FRCP, the Court **HEREBY STRIKES** docket
4 number six from the record. Accordingly, the Court **DENIES AS MOOT** Plaintiff's Motion to
5 Strike (Docket No. 7) and **VACATES** the corresponding August 19, 2010 hearing date.

6 **IT IS SO ORDERED.**

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8 Dated: July 8, 2010



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10 LAUREL BEELER
11 United States Magistrate Judge
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